

MR2723-307

Serial Number: 10/657,199

Reply to Office Action dated 13 June 2006

AMENDMENTS TO THE DRAWINGS

The attached Drawing sheet includes a change to Fig. 12. The sheet, which includes amended Fig. 12, replaces the original sheet that includes Fig. 12. In Fig. 12, the previously missing bond between the ring and the methoxy group in the β -Lactam structure has been corrected.

Attachment: 1 replacement sheet

REMARKS/ARGUMENTS

This case has been carefully reviewed and analyzed in view of the Office Action dated 13 June 2006. Responsive to the objections and rejections made in the Official Action, Claims 1-4 have been amended to clarify the language thereof.

In the Official Action, the Examiner objected to the Oath/Declaration as being defective, requiring a new Oath/Declaration. In response to this objection, a Declaration by Inventor Ying-Shih Feng is attached and believed to obviate the Examiner's objection.

In the Official Action, the Examiner objected to Fig. 12 for missing a bond between the ring and the methoxy group of the β -Lactam structure. A corrected formal Drawing of Fig. 12 is attached hereto, the missing bond between the ring and the methoxy group having been corrected thereon. It is believed that the replacement Drawing overcomes the Examiner's objection.

In the Official Action, the Examiner rejected Claims 1-4 under 35 U.S.C. § 112, first paragraph, stating that the Specification did not reasonably provide enablement for a method of producing any possible β -Lactam antibiotic from a protoplast fusion strain which is obtained by fusing the protoplasts of any strain of *Penicillium chrysogenum* with any strain of *Cephalosporium acremonium*. In response to this rejection, Claim 1 has been amended and positively recites the specifically produced β -Lactam antibiotics from the protoplast fusion strain CCRC930060 which is obtained by fusing a protoplast of ATCC48271 and ATCC48272.

In the Official Action, the Examiner also rejected Claims 1-4 under 35 U.S.C. § 112, first paragraph due to the fact that neither the Specification nor the prior art disclosed if the *C. acremonium* strain was deposited by Applicant or if it is commercially

available. In response to this rejection, the Specification has been amended and specifically notes that *C. acremonium* is commercially available from the American Type Culture Collection identified as strain ATCC48272.

In the Official Action, the examiner rejected Claims 1-4 under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement stating that the Specification did not disclose a repeatable process to obtain the protoplast fusion strain, CCRC930060, or did not make apparent whether the strain is readily available to the public. In response to this rejection, the Specification has been amended to note the date of the deposit of the protoplast fusion strain CCRC930060 as 27 September 2005 at the Food Industry Research Institute, 331 Shih-Pin Road, Hsin Chu, 300, Taiwan, R.O.C. Also, Applicant is providing a Declaration attached stating that the deposit was made under the terms of the Budapest Treaty and that the strain will be irrevocably and without restriction or condition released to the public upon issuance of the Patent.

In the Official Action, the Examiner rejected Claims 1-4 under 35 U.S.C. § 112, second paragraph for being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In response to this rejection, Claims 1-4 have been amended and now particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

It is now believed that the subject Patent Application has been placed in condition for allowance, and such action is respectfully requested.

MR2723-307

Serial Number: 10/657,199

Reply to Office Action dated 13 June 2006

No fees are believed to be due with this Amendment. If there are any charges associated with this filing, the Honorable Commissioner for Patents is hereby authorized to charge Deposit Account #18-2011 for such charges.

Respectfully submitted,
For: ROSENBERG, KLEIN & LEE



Morton J. Rosenberg
Registration #26,049

Dated: 10/12/2006

Suite 101
3458 Ellicott Center Drive
Ellicott City, MD 21043
(410) 465-6678
Customer No. 04586